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May 15, 2011

RE: Sponsoring a child safety bill

Dear State Representative:

On Saturday, May 14, 2011, I stopped by the Farmer's Market in Helena. Actually, I never did walk the Farmer's market because what I saw stopped me in my tracks. There was a truck parked, facing downhill, with a child inside with the motor running. The young boy could not have been more than six or seven years old. He was having a good old time bouncing up and down on the seat, turning the steering wheel as if pretending to drive. There were no adults nearby.

Having read and heard numerous horror stories of what can happen in situations where a young child is left unattended in a running vehicle, and knowing that numerous states have passed legislation to reduce the number of injuries and deaths of innocent children, I did what a concerned citizen might do; I stood by for a few minutes and when no one came near the vehicle, I called 911 and waited until the police arrived.

Before the police arrived, a middle-aged woman came walking up the hill and towards the vehicle. I asked her if it was her truck and she acknowledged it was. I then voiced my concerns about the child being left unattended. She pointed to a park bench at least thirty yards away and indicated that her husband had been watching. From my vantage point, it was not very likely and he definitely would not have been able to react in time if the child had put the vehicle in gear. The woman's reason for leaving her grandson unattended was because he was sick to his stomach and she didn't want him to get cold. Of course the child didn't have a jacket on as they walked away. I observed the child and vehicle for more than ten minutes.

A young, Helena police officer arrived while the woman was still in sight. I explained the situation and pointed out the woman and child. He said there wasn't anything he could do because the child wasn't in danger. I asked if Montana had an unattended child in a running vehicle law, citing that most states do. He informed me that Montana does not, but if the child was in danger, it could fall under the neglect statute. As a former law enforcement officer and attorney, I was astounded by the officer's rational that the child was not in danger. According to the officer, even though the grandfather was at least thirty yards away, he still had a clear view of the vehicle. The officer also was quite sure the child could not have put the vehicle in gear because most newer vehicles require that you depress the brake pedal before you can shift. Apparently the officer has never heard of a child standing on the brake pedal as they imitate what they see an adult do, or of that safety feature malfunctioning.



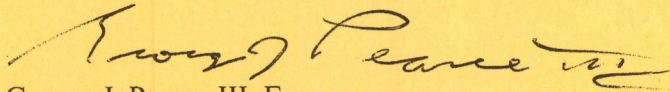




Personally, I think the potential loss of one child's life warrants consideration to enact a law similar to the laws of other states on this issue. But, please, don't just take my thoughts on it. By all means, Google the issue. Then, any reservations you might have should fall by the wayside.

I look forward to your response

Respectfully,

A handwritten signature in dark ink, appearing to read "George J. Pearce III". The signature is fluid and cursive, with a prominent "G" and "P".

George J. Pearce III, Esq.









Costa Mesa Fire Department

## **Kaitlyn's Law: Unattended Child in Motor Vehicle Act**

### **Kaitlyn's Law**

#### **Never Leave A Child Alone In A Car**

- Between 1996 and 2002, more than 175 children died of hyperthermia after being trapped in a motor vehicle. At least 19 have died in the United States already this year.
- Children age 3 and under accounted for more than 90% of these deaths.
- Most cases involved children left in cars by parents or other adults, but one-third were the result of children crawling into unlocked parked cars.



In the fall of 2001 the Governor of California signed into law Senate Bill 255, also known as *Kaitlyn's Law*. Named for Kaitlyn Russell, a six-month old who died after being left alone in a parked car for more than two hours, the law makes it illegal for a child to be left unattended in a motor vehicle.

#### **California Vehicle Code 15620**

(a) A parent, legal guardian, or other person responsible for a child who is **6 years of age or younger** may not leave that child inside a motor vehicle without being subject to the **supervision of a person who is 12 years of age or older, under either of the following circumstances:**

**(1) Where there are conditions that present a significant risk to the child's health or safety.**

**(2) When the vehicle's engine is running or the vehicle's keys are in the ignition, or both.**

(b) A violation of subdivision (a) is an infraction punishable by a fine of one hundred dollars (\$100).

(c) Nothing in this section shall preclude prosecution under both this section and Section 192 of the Penal Code, or Section 273a of that code, or any other provision of law.

(d) (1) Subdivision (b) and Section 40000.1 do not apply if an unattended child is injured or medical services are rendered on that child because of a violation described in subdivision (a).

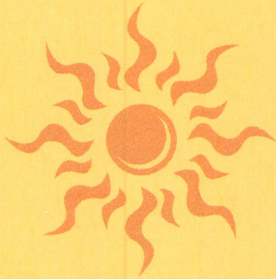
(2) Nothing in this subdivision precludes prosecution under any other provision of law.

In accordance with Kaitlyn's Law, 70% of the proceeds from fines are used for the development and implementation of community education programs on the dangers of leaving children unattended in motor vehicles.









- On a warm day, the temperature inside a parked car can reach as high as **140°** in as little as two hours.
- A young child's body temperature will rise three to five times faster than an adult's will, resulting in serious injury or death.

#### Resource Information

National Highway Traffic  
Safety Administration  
1-888-327-4236  
[www.nhtsa.dot.gov](http://www.nhtsa.dot.gov)

National SAFE KIDS  
Campaign  
(202) 662-0600  
[www.safekids.org](http://www.safekids.org)

4 R Kids Sake  
(951) 278-1820  
[www.4rkidssake.org](http://www.4rkidssake.org)

Orange County Fire  
Authority  
(714) 573-6200  
[www.ocfa.org](http://www.ocfa.org)

### Not Even For A Minute...

The U.S. Department of Transportation's National Highway Traffic Safety Administration (NHTSA) and the National SAFE KIDS Campaign work throughout the year to remind parents and childcare providers of the dangers of leaving children unattended in motor vehicles.

"During warm weather, temperatures can rapidly rise inside a vehicle, even if it's parked in the shade," said NHTSA Administrator Jeffrey W. Runge, M.D. "A tragedy can occur within minutes if children are left in a closed car."

#### Dangers to children left unattended in cars include:

- Heat stroke (hyperthermia);
- Carbon monoxide poisoning;
- Runaway vehicles;
- Carjacking;
- Child abduction;
- Trunk entrapment;
- Self-release from car seat;
- Emotional trauma.

#### What To Do

NHTSA and SAFE KIDS recommend following these safety rules to avoid heat-related injuries or other vehicle dangers:

1. Never leave a child alone in or around a vehicle.
2. Check to make sure all children leave the vehicle when you reach your destination, particularly when loading and unloading. Don't overlook sleeping infants.
3. Place a reminder of your child's presence where you'll be sure to see it before leaving the vehicle (diaper bag next to your briefcase, baby blanket under your lunch, etc.)
4. Never leave a child in a vehicle with the motor running or the key in the ignition.
5. Keep car keys away from children at all times.
6. Always lock your car, even at home, and remind your friends and neighbors to do the same.
7. Teach children not to play in, on or around cars.
8. Keep rear fold-down seats closed to help prevent children from getting into the trunk from inside the car.







2005 Washington Revised Code RCW 46.61.685: Leaving children unattended in standing vehicle with motor running — Penalty.

(1) It is unlawful for any person, while operating or in charge of a vehicle, to park or willfully allow such vehicle to stand upon a public highway or in a public place with its motor running, leaving a minor child or children under the age of sixteen years unattended in the vehicle.

(2) Any person violating this section is guilty of a misdemeanor. Upon a second or subsequent conviction for a violation of this section, the department shall revoke the operator's license of such person.

[2003 c 53 § 246; 1990 c 250 § 57; 1961 c 151 § 2. Formerly RCW 46.56.230.]

## 2012 Florida Statutes

### TITLE XXIII — MOTOR VEHICLES

#### Chapter 316 — STATE UNIFORM TRAFFIC CONTROL

316.6135 — Leaving children unattended or unsupervised in motor vehicles; penalty; authority of law enforcement officer.

316.6135 Leaving children unattended or unsupervised in motor vehicles; penalty; authority of law enforcement officer.—

(1) A parent, legal guardian, or other person responsible for a child younger than 6 years of age may not leave the child unattended or unsupervised in a motor vehicle:

(a) For a period in excess of 15 minutes;

(b) For any period of time if the motor of the vehicle is running, the health of the child is in danger, or the child appears to be in distress.

(2) Any person who violates the provisions of paragraph (1)(a) commits a misdemeanor of the second degree punishable as provided in s. 775.082 or s. 775.083.

(3) Any person who violates the provisions of paragraph (1)(b) is guilty of a noncriminal traffic infraction, punishable by a fine not less than \$50 and not more than \$500.

(4) Any person who violates subsection (1) and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to a child commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Any law enforcement officer who observes a child left unattended or unsupervised in a motor vehicle in violation of subsection (1) may use whatever means are reasonably necessary to protect the minor child and to remove the child from the vehicle.

(6) If the child is removed from the immediate area, notification should be placed on the vehicle.







(7) The child shall be remanded to the custody of the Department of Children and Family Services pursuant to chapter 39, unless the law enforcement officer is able to locate the parents or legal guardian or other person responsible for the child.

History.—s. 1, ch. 85-229; s. 4, ch. 87-225; s. 330, ch. 95-148; s. 57, ch. 99-8; s. 241, ch. 99-248; s. 1, ch. 2007-205; s. 14, ch. 2012-181.

Tennessee Code 55-10-803. Offense of leaving child unattended in motor vehicle -- Penalty

Tennessee Code > Title 55 > Chapter 10 > Part 8 > § 55-10-803. Offense of leaving child unattended in motor vehicle — Penalty

(a) It is an offense for a person responsible for a child younger than seven (7) years of age to knowingly leave that child in a motor vehicle located on public property or while on the premises of any shopping center, trailer park, or any apartment house complex, or any other premises that is generally frequented by the public at large without being supervised in the motor vehicle by a person who is at least thirteen (13) years of age, if:

(1) The conditions present a risk to the child's health or safety;

(2) The engine of the motor vehicle is running; or

(3) The keys to the motor vehicle are located anywhere inside the passenger compartment of the vehicle.

(b) A violation of this section is a Class B misdemeanor punishable only by a fine of two hundred dollars (\$200) for the first offense.

(c) A second or subsequent violation of this section is a Class B misdemeanor punishable only by a fine of five hundred dollars (\$500).

[Acts 2007, ch. 214, § 4.]

Unattended Children in Cars Law (Missouri)

#### Law Summary

A child under the age of 11 may not be left unattended in motor vehicle. A child is considered supervised when accompanied by someone age 14 or older.\*

\*Please note that even if a state does not have a specific law prohibiting adults from leaving children unattended, state and local prosecutors have the discretion to criminally charge adults under existing child endangerment laws.

#### Penalty

If the unattended child injures another person by causing a motor vehicle crash or by causing the motor vehicle to injure a pedestrian, then the parent or guardian of the child may be subject to a fine not to exceed \$1,000. If the unattended child kills another person by causing a motor vehicle crash or by causing the motor vehicle to kill a pedestrian, then the parent or guardian of the child may be subject to a fine not to exceed \$5,000.







California:

## V C Section 15620 Prohibition Against Unattended Child in Vehicle

### Prohibition Against Unattended Child in Vehicle

15620. (a) A parent, legal guardian, or other person responsible for a child who is 6 years of age or younger may not leave that child inside a motor vehicle without being subject to the supervision of a person who is 12 years of age or older, under either of the following circumstances:

(1) Where there are conditions that present a significant risk to the child's health or safety.

(2) When the vehicle's engine is running or the vehicle's keys are in the ignition, or both.

(b) A violation of subdivision (a) is an infraction punishable by a fine of one hundred dollars (\$100), except that the court may reduce or waive the fine if the defendant establishes to the satisfaction of the court that he or she is economically disadvantaged and the court, instead, refers the defendant to a community education program that includes education on the dangers of leaving young children unattended in motor vehicles, and provides certification of completion of that program. Upon completion of that program, the defendant shall provide that certification to the court. The court may, at its discretion, require any defendant described in this section to attend an education program on the dangers of leaving young children unattended in motor vehicles.

(c) Nothing in this section shall preclude prosecution under both this section and Section 192 of the Penal Code, or Section 273a of that code, or any other provision of law.

(d) (1) Subdivision (b) and Section 40000.1 do not apply if an unattended child is injured or medical services are rendered on that child because of a violation described in subdivision (a).

(2) Nothing in this subdivision precludes prosecution under any other provision of law.

Added Sec. 2, Ch. 855, Stats. 2001. Effective January 1, 2002. January 1, 2003.







Louisiana Revised Statutes 32:295.3 - Leaving children unattended and unsupervised in motor vehicles; prohibition; penalties

Louisiana Laws > Revised Statutes > Title 32 > Chapter 1 > Part IV > Subpart L > § 32:295.3 - Leaving children unattended and unsupervised in motor vehicles; prohibition; penalties

A. It is unlawful for any driver or operator to leave a child or children under the age of six years unattended and unsupervised in a motor vehicle.

B.(1) The term "unattended" as used in this Section means a child who has been left in a motor vehicle when the driver or operator of the vehicle is more than ten feet from the vehicle and unable to continuously observe the child.

(2) The term "unsupervised" as used in this Section means an unattended child when a person ten years of age or older is not physically present in the motor vehicle.

C.(1) A law enforcement officer who observes a child left unattended and unsupervised for a period in excess of ten minutes in violation of the provisions of this Section shall use whatever means are reasonably necessary to protect the child and remove the child from the motor vehicle.

(2) If the child is removed from the immediate area by a law enforcement officer pursuant to the provisions of this Section, the law enforcement officer shall place notification on the motor vehicle. The law enforcement officer shall hold the child until the parent or guardian returns.

D. Whoever violates this Section shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both. For each second or subsequent offense, the defendant shall be subject to imprisonment, with or without hard labor, of not less than one year nor more than two years and a fine of not less than one thousand dollars nor more than two thousand dollars, or both.

E. Any law enforcement officer acting in good faith pursuant to the provisions of this Section shall have immunity from any civil liability that otherwise might be incurred or imposed.

Acts 2003, No. 1032, §3; Acts 2005, No. 30, §1.









## Summary of Unattended Kids in Cars Laws February 2011

The eighteen states that have laws that prohibit leaving children unattended in an automobile include **California, Connecticut, Florida, Hawaii, Illinois, Kentucky, Louisiana, Maryland, Michigan, Missouri, Nebraska, Nevada, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas, and Washington**. Penalties for leaving children alone range from noncriminal traffic infractions to second-degree manslaughter charges if the child dies as a result from being left alone in the car. Additionally, there is a wide age range of children that pertain to these laws. Below you will find a brief summary of each law.

*Please note that even if a state does not have a specific law prohibiting adults from leaving children unattended, state and local prosecutors have the discretion to criminally charge adults under existing child endangerment laws.*

### EXISTING LAWS (18)

**1) California** – Children under age 7 may not be left alone in a motor vehicle. The child is not considered unattended if he/she is accompanied by someone age 12 or older. Police may issue a \$100 ticket to any parent or guardian who leaves a child unattended. In addition, the child's health and safety must be at risk for a fine to be given, or the vehicle's engine running and/or the keys in the ignition. The fine would be issued if the child was not harmed; if the child was harmed, the parent or guardian would face appropriate criminal charges.

**2) Connecticut** – Children under age 12 may not be left unsupervised in a public place or motor vehicle. All offenses are considered a class A misdemeanor, which carries a maximum one year prison term and/or a fine of no more than \$2,000. However, if a child is left unattended in a motor vehicle anytime between 8 p.m. and 6 a.m. that presents a substantial risk to the child's health and safety, the penalty is considered a class C felony, which carries a prison term in excess of one year and/or a fine of no more than \$10,000.







**3) Florida** – Children under age 6 may not be left alone in a motor vehicle for a period in excess of 15 minutes if the motor is not running. A child under the age of 6 may not be left in a motor vehicle for any length of time if the motor is running or the health of the child is in danger. The fine for violation can be no more than \$100 or a fine of \$50 to \$500 if the motor is running or the health of the child is in danger.

**4) Hawaii** – Children under age 9 may not be left unattended in a motor vehicle for five minutes or longer. A child is considered unattended if not accompanied by a person who is at least 12 years of age. Law enforcement officers, firefighters or rescue team personnel may use whatever means are reasonably necessary to remove an unattended child from a motor vehicle. If the parent or caregiver of the child is not located within a reasonable amount of time, the law enforcement officer, firefighter or rescue team member must immediately report the incident to the police; the police can take the unattended child into custody.

**5) Illinois** – Children under age 7 may not be left unattended in a motor vehicle in excess of 10 minutes. A child is considered unattended if he/she is not accompanied by a person age 14 or older; or if the child is accompanied by a person ages 14 or older, but is out of sight of that person. First offenses are considered class A misdemeanors, punishable by a term of imprisonment – in other than a penitentiary – for less than one year. Second or subsequent violations are considered class 3 felonies. If the child dies, the offense is punishable by a 2 to 10 year term of imprisonment.

**6) Kentucky** – Bryan's Law: It is illegal for a person to cause the death of a child under the age of 8 as a result of leaving that child unattended in a motor vehicle. The offender who left the child can be charged with manslaughter in the second degree. In addition to any other punishment imposed, the offender may be subject to a fine of \$1,000 to \$10,000.

**7) Louisiana** – It is illegal for any driver or operator to leave a child under the age of 6 unattended and unsupervised in a motor vehicle. A child is considered to be unattended if left in a motor vehicle when the driver is more than ten feet from the vehicle and is unable to continuously observe the child. A child is considered to be unsupervised if a person ten years of age or older is not physically present in the vehicle. First offenses carry a maximum fine of \$500 or term of imprisonment of no more than six months, or both. Second or subsequent offenses carry a term of imprisonment of at least one year, but no more than two years, or a fine between \$1000 – \$2000, or both.

**8) Maryland** – Children under the age of 8 may not be left unattended in a motor vehicle. A child is considered supervised if accompanied by someone age 13 or older. If found guilty of this misdemeanor, offenders would be subject to a maximum \$500 fine and/or up to 30 days in jail.

**9) Michigan** – A child under the age of 6 cannot be left unattended in a motor vehicle for a period of time that poses an unreasonable risk of harm or injury. A child is considered unattended if not supervised by an individual 13 years of age or older who is not legally incapacitated. Violations of the law will result in imprisonment for no more than 93 days or a fine not to exceed \$500, or both. If the violation results in physical harm other than serious harm







to the child, the person responsible for the child's care could be imprisoned for no more than a year or a fine not to exceed \$1000, or both. If the violation results in serious physical harm to the child, the person responsible for the child's care could be imprisoned for no more than 10 years or a fine not to exceed \$5,000, or both. If the violation results in the death of a child, the person responsible for the child's care could be imprisoned for no more than 15 years or a fine not to exceed \$10,000, or both.

**10) Missouri** – A child under the age of 11 may not be left unattended in a motor vehicle. A child is considered supervised when accompanied by someone age 14 or older. If the unattended child injures another person by causing a motor vehicle crash or by causing the motor vehicle to injure a pedestrian, then the parent or guardian of the child may be subject to a fine not to exceed \$1,000. If the unattended child kills another person by causing a motor vehicle crash or by causing the motor vehicle to kill a pedestrian, then the parent or guardian of the child may be subject to a fine not to exceed \$5,000.

**11) Nebraska** – A child under the age of 7 may not be left unattended in a motor vehicle. All offenses are punishable by a maximum of three months imprisonment or a fine of \$500 or both.

**12) Nevada** – A child ages 7 or younger cannot be left unattended in a motor vehicle if the conditions present a significant risk to his/her health or safety, or if the engine is left running or the keys are in the ignition. A child is considered to be supervised if within the sight of a person at least 12 years of age.

The court may dismiss the charges if the violator presents proof that he/she completed an educational program about the dangers of leaving a child unattended in a motor vehicle.

**13) Oklahoma** – A child who is 6 years of age or younger cannot be left unattended in a motor vehicle if the conditions present a risk to the child's health or safety. A child is considered unattended if the responsible person (parent, caregiver or guardian) cannot care for or come to the aid of the unaccompanied person. If the child is with a mentally competent person at least 12 years of age, the child is not considered unattended. The offense is a fine of at least \$50 for a first conviction; at least a \$100 fine and 50 hours of community service for second conviction; and at least a \$200 fine for a third or subsequent conviction. In addition, for a third or subsequent offense, the violator's record will be sent to the Oklahoma Department of Human Services for evaluation.

If a child ages 6 or under is left unattended on the premises of an establishment that can sell alcohol, and the adult has consumed alcohol during the unattended time period, the fine is a minimum of \$500.

**14) Pennsylvania** – The person driving or in charge of a motor vehicle may not leave a child under the age of 6 unattended in that motor vehicle. All offenses are punishable by imprisonment for up to 90 days and/or a fine not to exceed \$300.

**15) Rhode Island** – A child under age 7 may not be left unattended in a motor vehicle. Law enforcement officers are authorized to issue a verbal warning to the parent/caregiver about the







dangerous practice of leaving a child unattended in a motor vehicle. The verbal warning must include information about the dangers of this practice, including, but not limited to, the risk of kidnapping and/or abduction, and the dangers which may result from the accumulation of excessive temperature within the motor vehicle.

**16) Tennessee** – A child under age 7 may not be knowingly left alone in a motor vehicle located on any public property or on the premises of any shopping center, trailer park, or apartment house complex, or any other location that is frequented by the public. The conditions must pose a risk to the child's health or safety; the motor vehicle's engine is running or the keys to the motor vehicle are located anywhere inside the passenger compartment of the vehicle. A child is considered unattended if not supervised by a person at least 13 years of age. A violation carries a fine of \$200 for a first offense, and a fine of \$500 for subsequent offenses.

At the discretion of the court, a violator may be required to attend a community education course that includes education on the dangers of leaving a young child unattended in a motor vehicle. This class can be in lieu of the fines or in addition to the fines. A fee of \$50 – \$175 may be assessed for the course; if a person presents proof of his/her inability to pay, a fee will not be charged.

**17) Texas** – A child under age 7 may not be left unattended in a motor vehicle. A child is considered supervised if accompanied by someone age 14 or older. All offenses are punishable by a fine not to exceed \$500.

**18) Washington** – A child under the age of 16 may not be left unattended in a motor vehicle with its engine running. The first offense is punishable by a fine of no more than \$1,000 or by imprisonment in a county jail for no more than 90 days, or both. A subsequent violation may constitute suspension of the offender's driver's license.

A person may not leave a child under the age of 12 unattended in a parked automobile while he/she enters a tavern or other establishment where liquors are dispensed for consumption. Offenses are punishable by a fine of no more than \$1,000 and/or imprisonment in a county jail for not more than ninety days.



